

subpart begins exporting those articles to the United States during the initial applicable one-year period and elects to use the annual aggregation method for purposes of meeting the applicable value-content requirement. The articles entered during that initial period meet a value-content percentage of 48%, while articles entered during the second applicable one-year period meet a value-content percentage of 62%. The producer's articles may not receive duty-free treatment during the initial applicable one-year period because the requisite 50% value-content requirement was not met. The producer's articles also are ineligible for duty-free treatment during the second applicable one-year period because the 50% value-content requirement was not met in the immediately preceding period (the initial applicable one-year period). However, because the producer's articles entered during the second applicable one-year period satisfy the increased value-content percentage requirement (60%), the importer(s) of these articles may file a request for and receive a refund of the duties paid with respect to the articles entered during that period, assuming compliance with the conditions and requirements set forth in § 10.847 of this subpart. In addition, the producer's articles entered during the third applicable one-year period are eligible for duty-free treatment based on compliance with the increased value-content percentage in the second applicable one-year period.

#### § 10.846 Imported directly.

(a) *General.* To be eligible for duty-free treatment under this subpart, an article must be imported directly from Haiti into the customs territory of the United States. For purposes of this requirement, the words "imported directly" mean:

(1) Direct shipment from Haiti to the United States without passing through the territory of any intermediate country;

(2) If shipment is from Haiti to the United States through the territory of an intermediate country, the articles in the shipment do not enter into the commerce of the intermediate country and the invoices, bills of lading, and other shipping documents show the United States as the final destination; or

(3) If shipment is through an intermediate country and the invoices and other documents do not show the United States as the final destination, the articles in the shipment are imported directly only if they:

(i) Remained under the control of the customs authority in the intermediate country;

(ii) Did not enter into the commerce of the intermediate country except for the purpose of a sale other than at retail, provided that the articles are imported as a result of the original commercial transaction between the importer and the producer or the producer's sales agent; and

(iii) Have not been subjected to operations other than loading and unloading, and other activities necessary to preserve the articles in good condition.

(b) *Documentary evidence.* An importer making a claim for duty-free treatment under § 10.847 of this subpart may be required to demonstrate, to CBP's satisfaction, that the articles were "imported directly" as that term is defined in paragraph (a) of this section. An importer may demonstrate compliance with this section by submitting documentary evidence. Such evidence may include, but is not limited to, bills of lading, airway bills, packing lists, commercial invoices, receiving and inventory records, and customs entry and exit documents.

#### § 10.847 Filing of claim for duty-free treatment.

(a) *General.* An importer may make a claim for duty-free treatment for an article described in § 10.843 of this subpart by including on the entry summary, or equivalent documentation, the applicable subheading within Subchapter XX of Chapter 98 of the HTSUS under which the article is classified, or by the method specified for equivalent reporting via an authorized electronic data interchange system. The applicable subheadings within Subchapter XX, Chapter 98, HTSUS, are as follows:

(1) Subheading 9820.61.25 for apparel articles described in § 10.843(a) of this subpart for which the individual entry method is used for purposes of meeting the applicable value-content requirement set forth in § 10.844(a) of this subpart;

(2) Subheading 9820.61.30 for apparel articles described in § 10.843(a) of this subpart for which the annual aggregation method is used for purposes of meeting the applicable value-content

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requirement set forth in §10.844(a) of this subpart;

(3) Subheading 9820.62.05 for woven apparel articles described in §10.843(b) of this subpart;

(4) Subheading 9820.62.12 for brassieres described in §10.843(c) of this subpart; and

(5) Subheading 9820.85.44 for wiring sets described in §10.843(d) of this subpart.

(b) *Restriction on claims submitted under subheading 9820.61.30, HTSUS.* An importer may make a claim for duty-free treatment under subheading 9820.61.30, HTSUS, for apparel articles described in §10.843(a) of this subpart for which the annual aggregation method is used, only if the importer has a copy of a certification by the producer or entity controlling production setting forth its election to use the annual aggregation method for its articles (see §10.848(c)(3) of this subpart). In the absence of receipt of such certification from the producer or entity controlling production, an importer of articles described in §10.843(a) of this subpart for which duty-free treatment is sought under this subpart must enter the articles under subheading 9820.61.25, HTSUS.

(c) *Corrected claim.* If, after making a claim for duty-free treatment under paragraph (a) of this section, the importer has reason to believe that the claim is incorrect, the importer must promptly make a corrected claim and pay any duties that may be due. A corrected claim will be effected by submission of a letter or other written statement to the CBP port where the claim was originally filed.

### § 10.848 Declaration of compliance.

(a) *General.* Each importer claiming duty-free treatment for apparel articles, as described in §10.843(a) of this subpart, of a producer or entity controlling production that uses the annual aggregation method to satisfy the applicable value-content requirement set forth in §10.844(a) of this subpart with respect to the entries filed by the importer during an applicable one-year period must prepare and submit to CBP a declaration of compliance with the applicable value-content requirement within 30 days following the end of the

applicable one-year period. An importer that is required to submit a declaration of compliance under this paragraph must submit such a declaration for each importer of record identification number used by that importer. The declaration of compliance must be sent to: Office of International Trade, 1300 Pennsylvania Avenue, NW., Washington, DC 20229.

(b) *Effect of noncompliance—(1) Initial applicable one-year period.* If an importer fails to submit to CBP the declaration of compliance required under paragraph (a) of this section within 30 days following the end of the initial applicable one-year period, CBP may deny duty-free treatment to all entries of apparel articles, as described in §10.843(a), of that producer or entity controlling production that were filed by that importer during the initial applicable one-year period and that are entered by that importer during the next succeeding applicable one-year period.

(2) *Other applicable one-year periods.* If an importer fails to submit to CBP the declaration of compliance required by paragraph (a) of this section within 30 days following the end of any applicable one-year period (other than the initial applicable one-year period), CBP may deny duty-free treatment to all entries of apparel articles, as described in §10.843(a) of this subpart, of that producer or entity controlling production that are entered by that importer during the next succeeding applicable one-year period.

(c) *Contents.* A declaration of compliance submitted to CBP under paragraph (a) of this section:

(1) Need not be in a prescribed format but must be in writing or must be transmitted electronically pursuant to any electronic means authorized by CBP for that purpose;

(2) Must include the following information:

(i) The applicable one-year period during which the aggregation method was used (year beginning December 20, 20\_\_, year ending December 19, 20\_\_);

(ii) The legal name, address, telephone, fax number, e-mail address (if any), and identification number of the importer of record, and the legal name,